

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

TOWN OF CULPEPER

FOR THE

CULPEPER WASTEWATER TREATMENT PLANT

(VPDES Permit No. VA0061590)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and 10.1-1185 between the State Water Control Board and the Town of Culpeper, regarding the Culpeper Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and Regulations.

SECTION B: Definitions:

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia and described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Special Order.
6. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "BOD" means Biochemical Oxygen Demand.
8. "TSS" means Total Suspended Solids.
9. "TRC" means Total Residual Chlorine.
10. "WET" means Whole Effluent Toxicity.
11. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0061590.
12. "DMR" means Discharge Monitoring Report.

SECTION C: Finding of Facts and Conclusions of Law

1. The Town of Culpeper owns and operates the Culpeper Wastewater Treatment Plant (WWTP) which is located in Culpeper County. The WWTP discharges wastewater into Mountain Run in the Rappahannock River Basin. The discharges are the subject of the Permit, which was issued on April 23, 1999 and expired on April 23, 2004. The Town has submitted an application for reissuance and the existing permit will be administratively continued until such time as the permit is reissued.
2. The Board has evidence to indicate that the Town of Culpeper may have violated VPDES Permit Regulation 9 VAC 25-31-50.A by exceeding permit effluent limits for ammonia, TSS, dissolved oxygen, WET, and chlorine parameters. DEQ issued the following Warning Letters (WLs) and a Notices of Violation (NOVs) for the alleged violations: WL No. W2003-02-N-1006 issued February 4, 2003; WL No. W2003-05-N-1009 issued May 8, 2003; NOV No. W2003-06-N-0003 issued June 9, 2003; NOV No. W2003-08-N-0003 issued August 14, 2003; NOV No. W2003-09-N-0005 issued September 15, 2003; NOV No. W2003-10-N-0011 issued October 23, 2003; NOV No. W2003-12-N-0006 issued December 16, 2003; NOV No. W2004-01-N-0009 issued January 14, 2004; NOV No. W2004-02-N-0007 issued February 10, 2004; NOV No. W2004-03-N-0007 issued March 12, 2004; and NOV No. W2004-04-N-009 issued April 12, 2004.
3. In January 2003 the Town of Culpeper began work on a \$4.1 million upgrade to the WWTP to allow it to better handle high flows. Plans and specifications for the upgrade were approved by

the Virginia Department of Health on November 26, 2002. The project includes upgrading the existing influent pump station, construction of a new headworks building with bar screens and grit collection, modification of existing sludge lagoons to wet weather equalization lagoons, new plant drain pump station, new tertiary filter building and disc filter, new septage receiving and handling station, new generators, a new potable water pump. Additionally, the Town is conducting rehabilitation of its collection system to reduce inflow and infiltration.

4. Throughout the construction process the WWTP has experienced permit effluent limit exceedences, listed above, which the Town has primarily attributed to construction activities or high flows through the plant. The Town believes that once the upgrade is completed, increased equalization capacity and improved treatment systems along with the absence of disruptions from construction activities will allow the WWTP to be able to effectively handle high flows.
5. The Town of Culpeper has submitted a plan, incorporated in this Order as Appendix A, to complete the WWTP upgrade and achieve consistent permit compliance by September 1, 2004. Appendix B of this Order provides interim effluent limits to the WWTP until September 1, 2004.

SECTION D: Agreement and Order

Accordingly the State Water Control Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a), orders the Town of Culpeper, and the Town of Culpeper voluntarily agrees, to comply with the terms of Appendix A of this Order and with the interim effluent limits provided in Appendix B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Town of Culpeper, for good cause shown by the Town of Culpeper, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Warning Letters issued on February 4, 2003 and May 8, 2003, and the NOV's issued on June 9, 2003; August 14, 2003; September 15, 2003; October 23, 2003; December 16, 2003; January 14, 2004; February 10, 2004; March 12, 2004; and April 12, 2004 as listed above in Section C2. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the WWTP as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement

actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the Town of Culpeper admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Town of Culpeper consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Town of Culpeper declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and, for purposes of this Consent Order, to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the Town of Culpeper to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Town of Culpeper shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Town of Culpeper shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town of Culpeper shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order.

Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;
and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Town of Culpeper intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Town of Culpeper. Notwithstanding the foregoing, the Town of Culpeper agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Town of Culpeper. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Town of Culpeper from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, the Town of Culpeper voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

The Town of Culpeper voluntarily agrees to the issuance of this Order.

By: _____
J. Brannon Godfrey, Town Manager
Town of Culpeper

Date: _____

Consent Special Order
Town of Culpeper
Page 6 of 8

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 2004, by J. Brannon Godfrey, who is Town Manager of the Town of Culpeper, on behalf of said town.

Notary Public

My commission expires: _____.

APPENDIX A
SCHEDULE OF COMPLIANCE

1. The Town of Culpeper shall complete construction of the WWTP upgrade in accordance with approved plans and specifications by August 1, 2004.
2. The Town of Culpeper shall achieve full compliance with final Permit effluent limits by September 1, 2004.
3. The parties acknowledge that during the period of upgrade the Town of Culpeper may experience additional violations of the same Permit limits which necessitated the upgrade. The Town of Culpeper shall operate the facility in a manner that produces the best quality effluent of which it is capable in order to minimize such additional violations and minimize potential impacts to water quality. The interim effluent limits contained in Appendix B represent effluent concentrations and loadings which, for purposes of this Order, will be presumed to not result in a detrimental impact to water quality.

APPENDIX B
INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
TOWN OF CULPEPER WWTP

During the period beginning with the effective date of this Order and lasting until September 1, 2004, the Town of Culpeper shall monitor and limit the discharge from the WWTP in accordance with VPDES Permit No. VA 0061590, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective. These requirements shall be construed in light of the Board's Permit Regulation.

PARAMETER	DISCHARGE LIMITATIONS					MONITORING REQUIREMENTS		
	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
	<u>Concentration</u>	<u>Loading</u>	<u>Concentration</u>	<u>Loading</u>				
Ammonia (December-May)	5.3 mg/l	NL	NL	NL	NA	NA	1/DAY	24HC
Ammonia (June-November)	7.0 mg/l	NL	NL	NL	NA	NA	1/DAY	24HC
BOD	30 mg/l	NL	NL	511KG/DAY	NA	NA	1/DAY	24HC
TSS	30 mg/l	NL	NL	511 KG/DAY	NA	NA	1/DAY	24HC

NA Not Applicable

24HC A composite sample consisting of a minimum of 24 individual samples obtained at hourly intervals, taken proportional to flow. Individual samples may be of equal volume for flows that do not vary by +/- 10 percent over a 24 hour period.

1/DAY Once per day

NL No Limit